

FACT SHEET: SB 463

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AUGUST 16, 2013 UPDATED

THE PROBLEM

California's current determinant sentencing law, which gives judges the right to impose a minimum, medium, or maximum term, without additional findings of fact, sunsets on January 1, 2014. If the law is not extended, California will revert to a law that was held to be unconstitutional.

Continuation of this law is needed to correct a constitutional problem in the law and maintain stability in California's criminal justice system

BACKGROUND

California's current sentencing procedures were established by Senate Bill 40 (Romero) of 2007 and Senate Bill 150 (Wright) of 2009. That legislation was in response to a United States Supreme Court decision that held that California's determinate sentencing law to be unconstitutional because the law at the time required judges to make factual findings in order to impose a maximum sentence. (*Cunningham v. California* (2007) 549 US 270). The Supreme Court stated that the above problem could be corrected either by providing for a jury trial on the sentencing issue or by giving judges the discretion to impose the upper prison term without additional findings of fact.

SB 40 and SB 150 corrected the constitutional problem by giving judges the discretion to impose a minimum, middle or maximum prison

term, without additional factual findings. However, the judge is required to state the reasons for imposing a maximum term on the record. The approach to sentencing established by this legislation was accepted and embraced by California Supreme Court in *People v. Sandoval* (2007) 41 Ca.4th, 843-52.

California's current sentencing procedure works well and is fair to defendants. In the five years since Senate Bill 40 (Romero) was enacted, judges have given minimum or medium terms in over 83% of all cases. Maximum terms have been ordered in only 16.9% of the cases. (Source: Department of Corrections and Rehabilitations Report on New Prison Admissions).

California provides for a jury trial to determine if a defendant is guilty or not guilty of the crime, but relies upon the sound discretion of the judge to determine an appropriate prison sentence. This system is not only fair, but it saves money as a jury trial for sentencing would require the hiring of additional prosecutors, public defenders and judges. California cannot afford this alternative at a time when courthouses are closing and judicial budgets are so severely strained.

Solution:

SB 463 extends California's current sentencing law held to be constitutional by the California Supreme Court. This legislation extends the law another three years until January 2017. Failure to enact the proposed legislation will

resurrect a law held to be unconstitutional by the U.S. Supreme Court. There are no other changes to the law other than the extension.

Support:

Los Angeles District Attorney's Office
California District Attorney's Office
California Judges Association
Crime Victims United of California
California State Sheriffs Association
Crime Victims Action Alliance
San Diego County District Attorney